

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

January 5, 2004

CALL TO PODIUM:

Caroline Seiden

RESPONSIBLE STAFF:

**Caroline Seiden, Planner
Trudy Schwarz, Community
Planning Director**

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
<input checked="" type="checkbox"/>	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	12-17-03
	12-23-03
Hearing Date	1-05-04
Record Held Open	
Policy Discussion	

TITLE:**JOINT PUBLIC HEARING**

T-363 An ordinance to amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, entitled "Regulations Applicable to Particular Zones," Division 19, entitled "MXD Zone, Mixed Use Development," Section 24-160.D.3 to specify which uses are required to obtain a special exception in the MXD zone.

SUPPORTING BACKGROUND:

Text amendment T-351, adopted in November 2002 required that all special exception uses in the C-B, R-B, C-1, C-2, C-3, E-1, E-2 and I-3 zones are special exception uses in the MXD Zone. As a result, many uses considered desirable in the MXD zone must now go through the special exception process. Uses such as appliance repair shops, banks, barber and beauty shops, private educational institutions, parking lots and garages, public and private parks and playgrounds, general offices and pharmacies now require a special exception because they are listed as special exception uses in one of the above-referenced zones.

Staff does not believe that the Mayor and Council intended to discourage the permitting process for desirable uses. Given this unintended consequence, the City Attorney has drafted a new text amendment in which each special exception use for the MXD zone is specifically listed, without reference to other zones. All other uses allowed by right in the R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 zones and not specifically prohibited or listed as special exception uses would be allowed by right in the MXD Zone.

Attachments: Index of Memoranda, Exhibits

PRESENTATION TIME: 3 minutes

DESIRED OUTCOME:

**City Council-record open 30 days, close Feb 4, 2004
Planning Com-record open 20 days, close Jan 25, 2004
Planning Commission recommendation-Feb 4, 2004
Council-policy discussion Feb 16, 2004**

INDEX OF MEMORANDA

T-363

1. Application
2. Draft Ordinance
3. Letter requesting advertisement of the 01-05-04 Joint Public Hearing in the 12-17-03 and 12-24-03 issues of the *Gaithersburg Gazette*.
4. Notice of 01-05-04 Joint Public Hearing as sent on December 17, 2003
5. List of people/agencies notified of the hearing

TEXT AMENDMENT TO THE ZONING ORDINANCE

In accordance with Article VIII,
Section 24-194, 195, 197, and 198 of the City Code

Application Number	<u>T-363</u>
Filing Date	<u>10/27/03</u>
P.C. Hearing	<u>1/5/04</u>
M&C Hearing	<u>1/5/04</u>
Decision	_____
Decision Date	_____

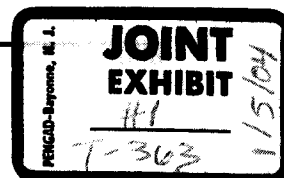
Application is hereby made to the

- ☐ City Planning Commission, or
☒ Mayor and City Council

for a change in the text of the Zoning Ordinance of the City of Gaithersburg, Maryland.

This change involves Article III, Section 24-160D.3(a), (b), (c)
to be amended per the attached ordinance.

Applicant/Staff Person Caroline Seiden Date 10/27/03
Address 31 S. Summit Ave, Gaithersburg, MD



ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE
CITY CODE (CITY ZONING ORDINANCE) ARTICLE III
ENTITLED "REGULATIONS APPLICABLE TO PARTICULAR
ZONES", DIVISION 19 ENTITLED, "MXD ZONE, MIXED USE
DEVELOPMENT" SECTION 24-160D.3(a) AND 24-160D.3(b)
AND TO REPEAL AND REENACT WITH AMENDMENTS
SECTION 24-160D.3(d) SO AS TO SPECIFY THOSE
SPECIAL EXCEPTIONS ALLOWED IN THE
MXD ZONE.

Text Amendment No. T-363

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland in public meeting assembled that Chapter 24, Article III, Division 19, section 24-160D.3(a), Section 24-160D.3(b) are amended and Section 24-160D.3(d) is hereby repealed and reenacted, all to read as follows:

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

* * * * *

Division 19. MXD Zone, Mixed Use Development

* * * * *

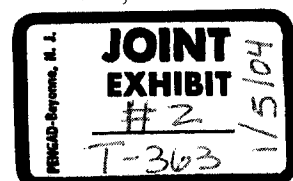
Sec. 24-160D.3. Uses Permitted

(a) *Residential.* All types of residential uses allowed by right [or by special exception] in Chapter 24 of this City Code shall be permitted, as well as accessory uses thereto.

(1)	*	*	*	*	*	*
(2)	*	*	*	*	*	*
(3)	*	*	*	*	*	*
(4)	*	*	*	*	*	*
(5)	*	*	*	*	*	*

* * * * *

(b) *Commercial/employment/industrial.* All uses allowed by right in any of the following zone: R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 Zones are permitted uses. [All uses allowed by special exception in the R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 zones shall be special exception uses in the MXD Zone and subject to approval by the City Board of Appeals. Designation of a use as a special exception, in any of the zones listed herein shall mean the use is a special exception in the MXD Zone,



notwithstanding the fact that such use may be allowed as a permitted use in any other zone referred to in this subsection (b).] The following uses are specifically prohibited:

(1)	*	*	*	*	*	*
(2)	*	*	*	*	*	*
(3)	*	*	*	*	*	*
(4)	*	*	*	*	*	*
(5)	*	*	*	*	*	*
(6)	*	*	*	*	*	*
(7)	*	*	*	*	*	*
(8)	*	*	*	*	*	*

(c) *Bed and Breakfast.* Bed and breakfast subject to the requirements contained in section 24-167B.

(d) *Special Exception Uses.* The following uses shall be special exception uses in the MXD Zone subject to approval by the City Board of Appeals notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in the above subsections (a) and (b):

Amusement center, whether operated separately or in conjunction with any other permitted or special exception use
Assembling from prepared materials of electronic devices and electrical appliances
Boarding homes
Care homes
Cemeteries
Child or elderly care facilities in dwelling units other than single-family detached or duplexes accommodating not more than eight (8) individuals
Child or elderly care facilities for accommodating more than eight (8) individuals
Clinics
Commercial parks and other outdoor places of amusements, including miniature golf courses, driving ranges, carnivals and fairs.
Funeral parlors and undertaking establishments
Group residential facilities operated by nonprofit or public entities
Hospitals
Nursing and care homes
Private clubs
Public utilities uses, such as electric substations and offices, excluding the storage of material and trucks and repair facilities.
Radio and television broadcasting stations, towers and accessory structures
Telecommunications facilities
Towers, poles, antennas, buildings or other structures intended for use in connection with the operation of a commercial radio or television broadcasting station

* * * * *

ADOPTED by the City Council of Gaithersburg, Maryland on this _____ day of _____, 2004.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2004.

SIDNEY KATZ, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2004 and the same was approved by the Mayor of the City of Gaithersburg on the _____ day of _____, 2004. This Ordinance will become effective on the _____ day of _____, 2004.

DAVID B. HUMPTON, City Manager




December 11, 2003

Karey Major, Law Section
The Gaithersburg Gazette
P.O. Caller 6006
Gaithersburg, Maryland 20884

Dear Karey:

Please publish the following legal advertisement in the **December 17** and **December 24, 2003**, issues of the *Gaithersburg Gazette*.

Sincerely,


Caroline Seiden, Planner
Planning and Code Administration

ASSIGN CODE: T-363 Acct# 133649

NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on T-363, filed by Caroline Seiden for the Mayor and City Council, on

MONDAY
JANUARY 5, 2003
AT 7:30 P.M.

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article III, Division 19, (*MXD Zone, Mixed Use Development*) §24-160D.3 (a), (*Uses Permitted, Residential*) §24-160D.3(b) (*Uses Permitted, Commercial/employment/industrial*) and repeal and reenactment of §24-160D.3(d) (*Uses Permitted, Special Exception Uses*) to specify individually each special exception use for the MXD Zone.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Caroline Seiden, Planner
Planning and Code Administration

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@ci.gaithersburg.md.us • www.ci.gaithersburg.md.us

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley J. Alster
Geraldine E. Edens
Henry F. Marraffa, Jr.
John B. Schlichting
Ann T. Somerset

CITY MANAGER
David B. Humpton





CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

NOTICE OF JOINT PUBLIC HEARING

The City of Gaithersburg Mayor and Council and Planning Commission will conduct a public hearing at the time and place noted below.

Meeting: MAYOR AND CITY COUNCIL
Application Type: TEXT AMENDMENT
File Number: T-363
Applicant: CAROLINE SEIDEN FOR PLANNING COMMISSION
Day/ Date/Time: MONDAY, JANUARY 5, 2004, AT 7:30 P.M.
Place: COUNCIL CHAMBERS, GAITHERSBURG CITY HALL
31 SOUTH SUMMIT AVENUE

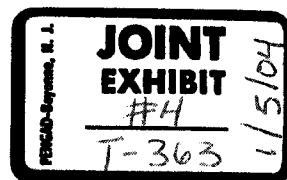
*****IMPORTANT *****

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, entitled, "Regulations Applicable to Particular Zones," Division 19, entitled, "MXD Zone, Mixed Use Development," §24-160D.3. entitled, "Uses Permitted," so as to specify individually those uses that require a special exception in the MXD Zone. (A copy of the draft ordinance can be viewed at www.ci.gaithersburg.md.us/notices). This is the first public hearing in a series of public opportunities to participate. Contact the Planning and Code Administration City Planner (listed below) at (301) 258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and

Joint Mayor and City Council & Planning Commission meetings can be viewed live on Gaithersburg Cable Television Channel 13, and at anytime (on demand) two weeks after the public hearing via the Internet and Web TV at <http://www.ci.gaithersburg.md.us>.

CITY OF GAITHERSBURG

By: Carole Seiden
CAROLINE SEIDEN
Planning and Code Administration



NOTICES SENT THIS 17TH DAY OF DECEMBER, 2003, TO:

APPLICANT AND INTERESTED PARTIES

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

MAYOR AND COUNCIL

PLANNING COMMISSION

CITY STAFF

David B. Humpton, City Manager
Frederick J. Felton, Assistant City Manager
Tony Tomasello, Assistant City Manager
Stanley D. Abrams, City Attorney
Mary Beth Smith, Public Information Director
Doris Stokes, Administrative Assistant
Jeff Baldwin, City Web Administrator (via email)